

SENATE BILL No. 641

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-8.

Synopsis: Prohibition of private operation of prisons. Eliminates the authority of the state to contract for a correctional facility or jail.

Effective: May 1, 1999 (retroactive).

Bowser

January 22, 1999, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE BILL No. 641

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 11-8-1-6.5 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY
- 3 1, 1999 (RETROACTIVE)]: **Sec. 6.5. As used in IC 11-8-3-1,**
- 4 **"correctional facility or jail" means a secure building, camp, farm,**
- 5 **or other facility used to house individuals in the custody of a law**
- 6 **enforcement agency or the department.**
- 7 SECTION 2. IC 11-8-2-5 IS AMENDED TO READ AS FOLLOWS
- 8 [EFFECTIVE MAY 1, 1999 (RETROACTIVE)]: Sec. 5. (a) The
- 9 commissioner shall:
- 10 (1) organize the department, subject to approval by the board, and
- 11 employ personnel necessary to discharge the duties and powers of
- 12 the department;
- 13 (2) administer and supervise the department, including all state
- 14 owned or operated correctional facilities;
- 15 (3) except for employees of the parole board, be the appointing
- 16 authority for all positions in the department within the scope of
- 17 IC 4-15-2 and define the duties of those positions in accord with

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IC 4-15-2;

(4) define the duties of a deputy commissioner and a superintendent;

(5) accept committed persons for study, evaluation, classification, custody, care, training, and reintegration;

(6) determine the capacity of all state owned or operated correctional facilities and programs and keep all Indiana courts having criminal or juvenile jurisdiction informed, on a quarterly basis, of the populations of those facilities and programs;

(7) utilize state owned or operated correctional facilities and programs to accomplish the purposes of the department and acquire or establish, according to law, additional facilities and programs whenever necessary to accomplish those purposes;

(8) develop policies, programs, and services for committed persons, for administration of facilities, and for conduct of employees of the department;

(9) administer, according to law, the money or other property of the department and the money or other property retained by the department for committed persons;

(10) keep an accurate and complete record of all department proceedings, which includes the responsibility for the custody and preservation of all papers and documents of the department;

(11) make an annual report to the governor according to subsection (c);

(12) develop, collect, and maintain information concerning offenders, sentencing practices, and correctional treatment as he considers useful in penological research or in developing programs;

(13) cooperate with and encourage public ~~and private~~ agencies ~~and other persons~~ in the development and improvement of correctional facilities, programs, and services; and

(14) explain correctional programs and services to the public.

(b) The commissioner may:

(1) when authorized by law, adopt departmental rules under IC 4-22-2, subject to approval by the board;

(2) delegate powers and duties conferred on him by law to a deputy commissioner or commissioners and other employees of the department;

(3) issue warrants for the return of escaped committed persons (an employee of the department or any person authorized to execute warrants may execute a warrant issued for the return of an escaped person); and

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(4) exercise any other power reasonably necessary in discharging his duties and powers.

(c) The annual report of the department shall be transmitted to the governor by September 1 of each year and must contain:

(1) a description of the operation of the department for the fiscal year ending June 30;

(2) a description of the facilities and programs of the department;

(3) an evaluation of the adequacy and effectiveness of those facilities and programs considering the number and needs of committed persons or other persons receiving services; and

(4) any other information required by law.

Recommendations for alteration, expansion, or discontinuance of facilities or programs, for funding, or for statutory changes may be included in the annual report.

SECTION 3. IC 11-8-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 1, 1999 (RETROACTIVE)]: Sec. 1. (a) The department may contract with any city, county, state, or federal authority ~~or with other public or private organizations~~, for:

(1) the custody, care, confinement, or treatment of committed persons; or

(2) the provision of other correctional or related services to committed persons.

(b) Before transferring a committed person to the custody, care, or control of an ~~agency or organization~~ **authority** under such a contract, the department must approve the receiving facility or program as suitable for the supervision and care of the person.

(c) The department may contract with individuals ~~or a private organization~~ for the provision of services to the department. **However, the department may not contract with an individual or a private organization for the management or operation of a correctional facility or jail.**

(d) To fund contracts under this section the department may use:

(1) its regular budgeted monies; and

(2) if applicable, monies deducted from the person's earnings under IC 11-10-7-5 or IC 11-10-8-6.

SECTION 4. [EFFECTIVE MAY 1, 1999 (RETROACTIVE)] **IC 11-2-8-5 and IC 11-8-3-1, both as amended by this act, shall not be construed to impair a contract in effect on May 1, 1999, that the department of correction has with a private or other public organization. The department may continue to operate under the terms of the contract after April 30, 1999, until the contract expires. However, after April 30, 1999, the department may not**



- 1 **exercise any option to renew or extend a contract subject to this**
- 2 **SECTION.**
- 3 **SECTION 5. An emergency is declared for this act.**

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